



South Carolina General Assembly  
116th Session, 2005-2006

## **Act #88 (2007) – H.3034**

Be it enacted by the General Assembly of the State of South Carolina:

### **Energy Independence and Sustainable Construction**

SECTION 1. Chapter 52, Title 48 of the 1976 Code is amended by adding:

"Article 8  
Energy Independence and Sustainable Construction

Section 48-52-800. This article may be cited as the 'Energy Independence and Sustainable Construction Act of 2007'.

Section 48-52-810. As used in this article:

- (1) 'Board' means the State Budget and Control Board.
- (2) 'Building project' means the design, construction, renovation, operation, and maintenance of any inhabited physical structure and its associated project building site.
- (3) 'Commercial interior fit-out' means interior design and installation by owners or tenants of new or existing office space, typically exclusive of structural components and core and shell elements.
- (4) 'GBI' means the Green Building Initiative.
- (5) 'Globes' means the level of a building's sustainability and energy efficiency performance as determined by GBI's Green Globes Rating System.
- (6) 'Green Globes Rating System' means the environmental building rating systems established by the Green Building Initiative.
- (7) 'High-performance building' means a building designed to achieve integrated systems design and construction so as to significantly reduce or eliminate the negative impact of the built environment.
- (8) 'LEED' means the U.S. Green Building Council's Leadership in Energy and Environmental Design Rating Systems.
- (9) 'LEED Silver standard' means the Silver standard as set forth by USGBC's LEED Green Building Rating Systems.

(10) 'Major facility project' means:

- (a) a state-funded new construction building project in which the building to be constructed is larger than 10,000 gross square feet;
- (b) a state-funded renovation project where the project involves more than fifty percent of the replacement value of the facility or a change in occupancy; or
- (c) a state-funded commercial interior tenant fit-out project that is larger than 7,500 square feet of leasable area.

'Major facility project' does not mean:

- (i) a building, regardless of size, that does not have conditioned space as defined by Standard 90.1 of the American Society of Heating, Refrigerating and Air-Conditioning Engineers;
- (ii) a public kindergarten, elementary school, middle school, secondary school, junior high school, or high school, all as defined in Section 59-1-150;
- (iii) a correctional facility constructed for the Department of Corrections, Department of Mental Health, or Department of Juvenile Justice;
- (iv) a building project funded by the State Ports Authority, the Coordinating Council for Economic Development, or the State Infrastructure Bank; or
- (v) a building project funded by the Department of Health and Environmental Control where the primary purpose of the building project is for the storage of archived documents.

(11) 'Renovation project' means a building project involving the modification or adaptive reuse of an existing facility.

(12) 'Third-party commissioning agent' means a person accredited by the USGBC or GBI, with expertise in building system performance, who will analyze, evaluate, and confirm the proper function and performance of a high performance building, its systems, equipment, and indoor air quality, and who did not participate in the original certification of the major facility project or renovation project.

(13) 'USGBC' means the United States Green Building Council.

Section 48-52-820. The purpose of this section is to promote effective energy and environmental standards for construction, rehabilitation, and maintenance of buildings in this State thereby improving the state's capacity to design, build, and operate high-performance buildings thus creating new jobs and contributing to economic growth and

increasing the state's energy independence. To accomplish the objectives of this article, the State shall adopt policies and procedures that:

- (1) optimize the energy performance of buildings throughout this State;
- (2) increase the demand for environmentally preferable building materials, finishes, and furnishings;
- (3) improve environmental quality in this State by decreasing the discharge of pollutants from state buildings and their manufacture;
- (4) create public awareness of new technologies that can improve the health and productivity of building occupants by meeting advanced criteria for indoor air quality;
- (5) improve working conditions and reduce building-related health problems;
- (6) reduce the state's dependence on imported sources of energy through buildings that conserve energy and utilize local and renewable energy sources;
- (7) protect and restore this state's natural resources by avoiding development of inappropriate building sites;
- (8) reduce the burden on municipal water supply and treatment by reducing potable water consumption;
- (9) reduce waste generation and manage waste through recycling and diversion from landfill disposal;
- (10) establish life cycle cost analysis as the appropriate and most efficient analysis to determine a building project's optimal performance level;
- (11) ensure each building project's systems are designed, installed, and tested to perform according to the building's design intent and its operational needs through third-party, post-construction review and verification; and
- (12) authorize the board to pursue ENERGY STAR designation from the United States Environmental Protection Agency to further demonstrate a building project's energy independence.

Section 48-52-830. (A)(1) All major facility projects in this State, as defined in Section 48-52-810(12)(a), must be designed, constructed, and at least certified as receiving two globes using the Green Globes Rating System or receiving the LEED Silver standard. All major facility projects in this State, as defined in Section 48-52-810(12)(b) or (c), must be analyzed using a life cycle cost analysis comparing the cost and benefits of designing, constructing, maintaining, and operating the facility at the LEED Silver standard or two globes standard, or better, with certification; normal

industry and regulatory standards as applicable; or some standard between the two that causes the project to be designed and constructed in a manner that achieves the lowest thirty-year life cycle cost.

(2) In obtaining certification as receiving two globes using the Green Globes Rating System, a major facility project must earn at least twenty percent of the available points for energy performance under 'C.1.1 Energy Consumption'. In obtaining certification as meeting the LEED Silver standard, a major facility project must earn at least forty percent of the available points for energy performance under 'EA Credit 1: Optimize Energy Performance'. The State Engineer's Office may waive the requirements of this item for a proposed major facility project should it determine that the costs of meeting this item are not economically feasible. The State Engineer's Office shall notify the board of the reason for the issuance of a waiver.

(B) The board may petition the General Assembly to require all major facility projects be certified to a high-performance building rating system standard in addition to or instead of the systems provided in this chapter. However, any alternate rating system adopted by the General Assembly must be no less stringent than the systems provided in this chapter.

(C) The board shall administer and enforce the provisions in this article. Also, the board may adopt rules and promulgate regulations to comply with the goals set forth in Section 48-52-820.

Section 48-52-840. (A) In order to become certified using a LEED rating system, a major facility project shall register with USGBC prior to filing the first building construction permit application. USGBC shall have the sole discretion in determining whether a major facility project receives certification.

(B) All major facility projects that were certified at the LEED Silver standard or higher must be inspected by a third-party commissioning agent in the fifth, tenth, and fifteenth year following certification. The third-party commissioning agent shall determine whether the building is operating at the standard to which it was originally designed and certified. The third-party commissioning agent shall report its findings to the State Engineer. The report must include, but is not limited to, the building's savings on energy and water, the level of its indoor air quality, the existing system's function and performance, problems with the system, and whether the system's performance meets the facility's requirements. If the State Engineer determines that the building is not operating within the spirit of this article, the State Engineer may take appropriate measures to bring the building into compliance.

(C) The board shall develop and implement a process to monitor and evaluate the energy and environmental benefits associated with each major facility project designed, constructed, or renovated pursuant to this article. The monitoring and evaluation of each major facility project shall commence one year after certification of the major facility project and shall continue for nineteen years thereafter. All data concerning energy and

environmental benefits collected pursuant to this section must be made available to the board to be compiled and submitted to the General Assembly pursuant to Section 48-52-860.

Section 48-52-850. (A) In order to become certified using a Green Globes Rating System, a major facility project shall register with GBI prior to filing the first building construction permit application. GBI shall have the sole discretion in determining whether a major facility project receives certification.

(B) All major facility projects that were first certified as receiving two globes using the Green Globes Rating System must be inspected by a third-party commissioning agent in the fifth, tenth, and fifteenth year following certification. The third-party commissioning agent shall determine whether the building is operating at the standard to which it was originally designed and certified. The third-party commissioning agent shall report its findings to the State Engineer. The report must include, but is not limited to, the building's savings on energy and water, the level of its indoor air quality, the existing system's function and performance, problems with the system, and whether the system's performance meets the facility's requirements. If the State Engineer determines that the building is not operating within the spirit of this article, the State Engineer may take appropriate measures to bring the building into compliance.

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Section 48-52-860. The board shall annually submit a report regarding major facility projects to the General Assembly that includes:

- (1) the number and types of buildings designed and constructed;
- (2) the level of certification of each building designed, constructed, or renovated;
- (3) actual savings in energy costs;
- (4) a description of all potential environmental benefits, including, but not limited to, water resources savings and the reduction of waste generation;
- (5) the ability of buildings to continue to operate at the standard to which it was originally certified;
- (6) the reason for any waiver granted by the State Engineer's Office; and

(7) any conflicts or barriers that hinder the effectiveness of this article."

SECTION 2. This act takes effect upon approval by the Governor and will apply to all major facility projects that receive approval of the State Budget and Control Board - Permanent Improvement Project Request A-1 form on or after the effective date.